

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	November 8, 2017
Time of Incident:	8:00 p.m. to 9:00 p.m.
Location of Incident:	XXX N Clinton Street
Date of COPA Notification:	November 28, 2017
Time of COPA Notification:	12:32 p.m.

On November 8, 2017, at XXX N Clinton Street, between 8:00 and 9:00 p.m., Subject 1 alleges that a Chicago Police Officer approached him, told him to raise his hands, and to take his wallet from his pocket. He further alleges that the officer's hand was on his holstered firearm, therefore detaining him in violation of his civil rights. COPA was able to identify the officer and finds that there is not a preponderance of evidence to prove or disprove the allegation against him, and that this allegation should be Not Sustained.

## II. INVOLVED PARTIES

Involved Officer #1:	Officer A, star #XXXX, employee ID #XXXXXX, DOA XXXX, Police Officer, Unit XXX, DOB XXXX, Male, White-Hispanic
Involved Officer #2:	Officer B, star #XXXXXX, employee ID #XXXX, DOA XXXX, Police Officer, Unit XXX, DOB XXXX, Male, White
Subject #1:	Subject 1, XXXX, Male Black

## III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. Detained Subject 1 without justification in violation of Rule 2.	Not Sustained

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**IV. APPLICABLE RULES AND LAWS**

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**Rules**

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1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

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**Special Orders**

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1. S04-13-09 – Investigatory Stop System

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**Federal Laws**

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1. Fourth Amendment to the United States Constitution

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**V. INVESTIGATION<sup>1</sup>****a. Interviews**

The recorded statement of Subject 1 (“Subject 1”) was taken at COPA on November 28, 2017. Subject 1 stated that he was escorting a female acquaintance near Clinton and Washington Streets. Subject 1 stated that a black, unmarked SUV pulled up and was occupied by two male white officers. Subject 1 stated that he hugged the female and said goodbye. Subject 1 stated that a male white officer in black clothing (later identified as Officer A) came from the passenger side of the police vehicle and told him to put his hands up. Subject 1 stated that Officer A’s hand was on the barrel (sic) of the gun. Subject 1 stated that Officer A said, “put your hands in your pocket and pull out what’s in your pocket.” Subject 1 stated that he was hesitant at first, fearing that he would be shot, then slowly pulled his wallet out. Subject 1 stated that Officer A said, “next time if I tell you to put your hands up, that’s what I meant.” Subject 1 stated that Officer A got into the police vehicle and left. Subject 1 stated that the driver of the police vehicle stayed inside. Subject 1 stated that he works with CPD and recognized the vest and markings of the officer belonging to the Chicago Police Department. Subject 1 stated that he called the 1<sup>st</sup> District desk to no avail, and was directed to COPA through Police Headquarters for his complaint. Subject 1 stated that he is a Cook County Deputy Sheriff and that Officer A left before he could identify himself.

A second statement of Subject 1 was taken at COPA on December 11, 2017. Subject 1 positively identified Officer A as the officer that approached him on November 8, 2017. Subject 1 did not identify the driver of the police vehicle although Officer B was included in the array<sup>2</sup>.

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> Subject 1 was presented with a photo array by COPA in an effort to confirm the identity of the unknown officer.

The recorded statement of Officer B was taken at COPA on January 26, 2018. Officer B stated that he and his partner were on patrol and Officer A reported seeing a possible panhandler on the sidewalk and told him to turn the car around. Officer B stated that Officer A exited their vehicle to speak to the subject and by the time he had turned the car around Officer A had returned. Officer B stated that Officer A was gone for about twenty seconds. Officer B stated that panhandlers commonly stand on the sidewalk to block pedestrians. Officer B stated that Officer A said he thought the male was panhandling but was mistaken. Officer B stated that Officer A said that the male was wearing police style pants and appeared to be in a casual conversation with a female, and to disregard the incident.

The recorded statement of Officer A was taken at COPA on January 26, 2018. Officer A stated that he and his partner were travelling south bound on Clinton Street and he observed a black male (Subject 1) blocking the path of the sidewalk, and the area is problematic for panhandling and thefts. Officer A stated that the Ordinance<sup>3</sup> prohibits panhandlers from blocking the sidewalk near train stations. Officer A stated that as he was driving by, he saw Subject 1 hugging a female who then walked away. Officer A stated that panhandlers will hug people when asking for money or try to pickpocket them. Officer A stated that he told Officer B to stop the vehicle. Officer A stated that he approached the male and asked for his identification. Officer A stated that the male appeared well dressed. Officer A stated that he apologized to the male and told him that he stopped him for the wrong reason. Officer A stated that the male reached for his wallet and stated that he has an ID. Officer A stated that Subject 1 appeared confused and upset upon being questioned. Officer A stated that he again said it was a mistake and continued to walk away. Officer A stated that the male said, "I'm the police" to which Officer A replied, "I don't care, it was my mistake" and reentered the police vehicle within a minute of approaching Subject 1. Officer A stated that he did not recall if he told Subject 1 to put his hands up, or if he placed his hand on his weapon. Officer A stated that he did not ask Subject 1 to take out his wallet. Officer A stated that he did not know Subject 1 was a Cook County Sheriff.

**b. Digital Evidence**

A Photo Array Line-up was conducted on December 11, 2017 at COPA in which Subject 1 positively identified Officer A<sup>4</sup>

**c. Documentary Evidence**

A GPS Data query was obtained for Chicago Police vehicles in the area of the incident and documented that Beat XXXX was in the vicinity on the date and time in question<sup>5</sup>

Attendance and Assignment records documented that Officers B and Officer A were assigned to Beat XXXX<sup>6</sup>

**d. Additional Evidence**

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<sup>3</sup> Officer A referenced the Panhandling Ordinance, Municipal Code of Chicago, 8-4-025

<sup>4</sup> Att. 14

<sup>5</sup> Att. 8

<sup>6</sup> Att. 9

A Canvass was performed on December 21, 2017, in the vicinity of XXX N Clinton Street, there were no surveillance cameras that appeared likely to have captured the incident<sup>7</sup>

Telephone Contact was made with independent witness Civilian 1 on January 17, 2018. Civilian 1 stated that as she was walking away from Subject 1, she overheard the approaching officer say, "hey dude, let me talk to you for a minute."<sup>8</sup>

## **VI. ANALYSIS**

Through the initial investigation COPA determined that the involved officers were Officer B and Officer A<sup>9</sup>. GPS and attendance records revealed that Officers Officer B and Officer A were assigned to Beat XXXX which was in the vicinity during the time of the alleged incident. A second interview of Subject 1 was conducted for the purpose of identifying the involved officers through a photo array. Subject 1 positively identified Officer A as the officer that approached him.

COPA found that there was some level of interaction between Officer A and Subject 1. To determine whether the interaction between Officer A and Subject 1 rose to the level of a seizure under The Fourth Amendment, COPA evaluated the available evidence, and based upon the investigation, no determination could be made to establish the encounter as either consensual or as an investigatory stop.

According to Subject 1's statement, Officer A approached him and ordered him to raise his hands, then told him to remove his wallet from his pocket. Subject 1 alleged that Officer Officer A's hand was placed on his holstered weapon and that the encounter lasted approximately five minutes. If the encounter happened as alleged, a reasonably objective person may have believed that he or she was not free to leave due to the presence and command of the officer.

According to Officer A's statement, he believed that Subject 1 was a panhandler and approached him with the intent of questioning him. Officer A also stated that once he realized that he mistook Subject 1 for a panhandler, he immediately terminated the encounter and left the area. According to Officers A and B, the interaction with Subject 1 only lasted seconds, and according to independent witness Civilian 1, she overheard Officer A say, "hey dude, let me talk to you for a minute," instead of Subject 1's allegation that he was ordered to show his hands.

While there is no doubt that Officer A interacted with Subject 1, COPA cannot prove or disprove that the incident occurred as alleged, therefore COPA recommends Allegation #1 against Officer A be Not Sustained.

## **VII. CONCLUSION**

Based on the analysis set forth above, COPA makes the following findings:

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<sup>7</sup> Att. 25

<sup>8</sup> Att. 15

<sup>9</sup> Atts. 8, 9

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer A	1. Detained Subject 1 without justification in violation of Rule 2	Not Sustained

Approved:

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*Deputy Chief Administrator – Chief Investigator A*

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Date

**Appendix A**

## Assigned Investigative Staff

<b>Squad#:</b>	X
<b>Investigator:</b>	Investigator A
<b>Supervising Investigator:</b>	Supervising Investigator A
<b>Deputy Chief Administrator:</b>	Chief Investigator A